

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

Case No. A-6381

PETITION OF JOANNA VELTRI
(Hearing held June 6, 2012)

OPINION OF THE BOARD
(Effective date of Opinion, July 27, 2012)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for variances from Sections 59-C-1.326(3)(B)(5), 59-C-1.326(3)(C)(5), 59-C-1.326(B)(4)(5) and 59-C-1.326(3)(C)(4). The existing accessory structure/detached garage requires a variance of three (3) feet as it is within three (3) feet of the rear lot line and a variance of four (4) feet as it is within three (3) feet of the side lot line. The petitioner proposes the construction of a second-story addition that requires a variance of nine (9) feet as it is within three (3) feet of the rear lot line and a variance of nine (9) feet as it exceeds the maximum fifteen (15) foot height by 3.07 feet.

The required rear lot line setback is six (6) feet and the required side lot setback is seven (7) feet for the existing accessory structure/detached garage. The required rear lot line setback is twelve (12) feet and the required side lot line setback is twelve (12) feet for the second-story addition.

Stephen Strasser, the petitioner's agent, appeared at the public hearing.

The subject property is Part of Lot 30, Block 4, located at 7118 Maple Avenue, Takoma Park, Maryland, 20912, in the R-60 Zone, (Tax Account No. 01062920).

Decision of the Board: Requested variances **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The proposed renovation of the existing 23.11¼ x 26 foot accessory structure/detached garage and the petitioner proposes the construction of a 23.11¼ x 26 foot second-story addition.
2. Mr. Strasser testified that the subject property is 35 feet in width and that this characteristic of the lot creates an 11-foot wide strip of buildable area. He testified that because of the width of the lot, both the existing house and the detached garage are non-conforming structures. He testified that due to the narrowness and shallowness of the lot, any new construction on the property would require a variance. He testified that the proposed renovation of the existing one-story

detached garage and the construction of a second-story addition would not increase the structure's existing footprint. See Exhibit Nos. 4(a)-(b) [site plans], 7 [zoning vicinity map] and 10 [photos].

3. Mr. Strasser testified that the existing detached garage is currently sited in the required side and rear yard setbacks. The petitioner testified that she believed the house was built in 1922 and that the detached garage was built in the 1940s or 1950s. The petitioner testified that there are lots in her immediate neighborhood that are similar in width, but that those lots have three times the depth of her property.

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variances can be granted. The requested variances comply with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the subject property is a narrow and shallow lot that is 35 feet in width. The Board finds that the lot's width results in a buildable strip of area that is 11 feet wide. The Board finds that the subject property is similar in width to other lots in the immediate area, but that the other neighboring lots have at least twice the depth of the subject property. The Board finds that the accessory structure/detached garage has existed for over 50 years and that it's proposed renovation and the construction of a second-story addition will not increase the structure's existing footprint. The Board finds that these are exceptional conditions peculiar to the subject property and that the strict application of the zoning regulations will result in practical difficulties to and an undue hardship upon the property owner.

- (b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the requested variances for the renovation of the existing accessory structure/detached garage and the construction of a second-story addition are the minimum reasonably necessary.

- (c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly*

adopted and approved area master plan affecting the subject property.

The Board finds that the proposed construction will continue the residential use of the property and that the variances will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

(d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

The Board finds that the renovation of the existing accessory structure/detached garage and the proposed construction of a second-story addition will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variances of three (3) feet from the required six (6) foot rear lot line setback and of four (4) feet from the required seven (7) foot side lot line setback for the renovation of the existing accessory structure/detached garage; and the requested variances of three (3) feet from the required twelve (12) foot rear lot line setback of and nine (9) feet from the required twelve (12) foot side lot line setback for the construction of a second-story addition are granted subject to the following conditions:

1. The petitioner shall be bound by all of her testimony and exhibits of record, and the testimony of her witness, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4(a)-(b) and 5(a) through 5(f).

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by David K. Perdue, seconded by Catherine G. Titus, Chair, with Carolyn J. Shawaker, in agreement, and with Walter S. Booth and Stanley B. Boyd, in opposition, the Board adopted the foregoing Resolution.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of

Appeals this 27th day of July, 2012.

Katherine Freeman
Executive Director

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.